

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF VENTURA
VENTURA**

MINUTE ORDER

DATE: 11/16/2016

TIME: 08:20:00 AM

DEPT: 43

JUDICIAL OFFICER PRESIDING: Kevin DeNoce

CLERK: Tiffany Froedge

REPORTER/ERM: Nalen Rieder

CASE NO: **56-2015-00465460-CU-BC-VTA**

CASE TITLE: **Aerovironment Inc vs. Torres**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Breach of Contract/Warranty

EVENT TYPE: Motion to Compel Further Responses

MOVING PARTY: Aerovironment Inc

CAUSAL DOCUMENT/DATE FILED: Motion to Compel Further responses and compel Compliance to Plaintiffs Requests for Production of Documents Set Two, 10/07/2016

EVENT TYPE: Motion - Other (CLM) to Compel Further Responses to Defendants' Request for Production of Documents Set Two

MOVING PARTY: Gabriel Torres, Jeff McBride, Micasense Inc, Justin McAllister

CAUSAL DOCUMENT/DATE FILED: Motion to Compel Further Responses to Defendants' Request for Production of Documents, Set Two, 08/24/2016

EVENT TYPE: Motion - Other (CLM) to Compel Further Responses to Defendants' Request for Production of Documents Set Three

MOVING PARTY: Gabriel Torres, Jeff McBride, Micasense Inc, Justin McAllister

CAUSAL DOCUMENT/DATE FILED: Motion to Compel Further Responses to Defendants' Request for Production of Documents, Set Three, 08/24/2016

Additional events listed on last page.

APPEARANCES

JENNIFER S. BALDOCCHI, counsel, present for Plaintiff(s).

A LOUIS DORNY, counsel, present for Defendant(s).

Weiss Hamid, counsel for Defendant, is present

At 09:22 a.m., court convenes in this matter with all parties present as previously indicated.

Courtroom is not closed, nor is the transcript sealed for this proceedings.

Court and counsel discuss appointing a discovery referee. Counsel all agree to have Hon. John Zebrowski be appointed discovery referee for all discovery issues going forward. Counsel agree that the \$725.00/hour fee is to be split 50/50. Counsel are to email the court later today to verify that Hon John Zebrowski is available to be appointed.

All other matters on calendar are taken under submission. Court to notify counsel with ruling later today via email.

The Court finds/orders:

1. The court appoints a discovery referee to hear and determine the present and all future discovery disputes in the instant case including the discovery matters heard on November 16, 2016. (*Code Civ. Proc.*, §§ 638, 639.) Previous matters ruled on by the Court are not to be reconsidered by the discovery referee. The retired Judge of the Superior Court identified below is appointed as Discovery Referee:

Hon. John Zebrowski
ADR Services, Inc.
915 Wilshire Blvd., Suite 1900
Los Angeles, California 90017
Tel: (213) 683-1600 x 35
Fax: (213) 683-9797

2. In addition to finding that the parties have consented to the appointment of a discovery referee, the court finds that there are exceptional circumstances which require a referee, including the following:

- a. The likelihood that discovery disputes will recur in the instant case;
- b. The probability that the resolution of the present dispute and/or those likely to arise in the future will consume undue amounts of the court's time and resources, to the detriment of parties and counsel in other cases; and
- c. This case involves alleged national security secret matters that are more properly resolved in a non-public forum.

3. The Referee's hourly rate may not exceed \$725.00 per hour. No party has established an economic inability to pay a pro rata share of the Referee's fees.

4. Counsel have contacted the Referee and confirmed his ability to serve.

5. Counsel are to advance the Referee's fees equally, but the Referee is directed to include in his Report such re-apportionment of the costs as appropriate pursuant to Code of Civil Procedure § 645.1

6. Pursuant to Code of Civil Procedure § 644(b), the decision of the Referee is only advisory and the Court may adopt the referee's recommendations, in whole or in part, after independently considering the Referee's findings and any objections and responses thereto filed with the Court.

7. The Referee is ordered to submit a statement of awareness of, and compliance with, Canon 6 of the Code of Judicial Ethics and of the California Rules of Court, rule 244.2(c). Counsel contracting the Referee must advise him of this requirement. The Clerk is ordered to attach that statement to the original of this Order in the court file.

8. The Clerk is hereby ordered to forward a copy of this Order to the Presiding Judge of this Court and to the Referee.

Notice to be given by the clerk.

ADDITIONAL EVENTS:

EVENT TYPE: Court's Motion (SHC) Regarding Appointment of Discovery Referee

EVENT TYPE: Motion - Other (CLM) to Compel Further Responses to Defendants' Request for Production of Documents Set Four & Five

MOVING PARTY: Gabriel Torres, Jeff McBride, Micasense Inc, Justin McAllister

CAUSAL DOCUMENT/DATE FILED: Motion to Compel Further Responses to Defendants' Request for Production of Documents, Set Four & Five, 08/24/2016